



DEPARTMENT OF BUILDING AND DEVELOPMENT  
STAFF REPORT

**BOARD OF SUPERVISORS PUBLIC HEARING**

**DATE OF HEARING: July 31, 2007**

**CASE NUMBER/CASE NAME:**  
**ZOAM 2006-0003, Zoning Ordinance Annual Review and**  
**ZOAM 2007-0001, Water Lines in Very Steep Slopes**

**DECISION DEADLINE: At the Pleasure of the Board**

**ELECTION DISTRICT: Countywide**

**PROJECT PLANNERS: Melinda Artman**  
**Marilee Seigfried**  
**Amy Lohr**

**EXECUTIVE SUMMARY**

On December 19, 2006 and April 17, 2007, the Board of Supervisors adopted resolutions of intent to amend the Revised 1993 Loudoun County Zoning Ordinance (the "Zoning Ordinance") to implement the recommendations made by the Zoning Ordinance Review Committee (ZORC) as transmitted to the Board on February 10, 2006. In addition, the Planning Commission adopted a resolution of intent to amend on April 30, 2007 for a companion amendment with regard to uses and performance standards in very steep slope areas. In order to implement these resolutions, amendments to Articles 1 through 8 of the Zoning Ordinance are necessary.

**SUGGESTED MOTIONS**

1. I move that the Board of Supervisors forward ZOAM 2006-0003 and ZOAM 2007-0001 to the Committee of the Whole for further discussion.

Or,

- 2a. I move that the Board of Supervisors suspend the rules.

And,

- 2b. I move that the Board of Supervisors approve ZOAM 2006-0003 and ZOAM 2007-0001, with the Zoning Ordinance text set forth in the ZORC Redline Draft dated February 10, 2006, as amended by recommendations of the Planning Commission as set forth in the document titled "Addendum to ZORC Redline Draft" dated July 11, 2007.

Or,

3. I move an alternate motion.

## **I. BACKGROUND:**

The Planning Commission was briefed on the proposed Zoning Ordinance Amendments on January 29, 2007. A public input session was held on February 12, 2007 and written comment was also accepted. The Planning Commission held work sessions on March 5, March 12, April 2, April 9, April 23, April 30, June 11, and June 27, 2007 to discuss issues identified by the Commission, Staff, Loudoun County Sanitation Authority (LCSA) and members of the public. ZORC, Staff and Planning Commission recommendations are summarized in the "Summary Matrix" included as Attachment 1 to this report. Text changes recommended by the Planning Commission are included in the "Addendum to ZORC Redline Draft," dated July 11, 2007, which is included as Attachment 2 to this report.

On March 6, 2007, the Planning Commission presented a list of additional Zoning Ordinance Amendments to the Board of Supervisors for consideration with this annual review process. The Board directed the Zoning Administrator and the Planning Commission to work on a streamlined list of items to be included for review and to return to the Board at a later date. The copy teste of this action is included as Attachment 3.

On April 17, 2007, the Planning Commission presented a streamlined list to the Board of Supervisors. The Board adopted a resolution of intent to amend the Zoning Ordinance to include the amendments listed below. The copy teste of this action is included as Attachment 4. Draft language is included in the "Addendum to ZORC Redline Draft." [Attachment 2]

1. As A-3 is being amended by ZORC regarding indoor recreation in [the] A-3 District (A-3 is usually close to Towns), expand intent to amend under this item to include examination to allow indoor recreation an appropriate distance beyond the JLMA's and Town boundaries.
2. Expand intent to amend to include adding a Remedy to Steep Slope violations so that errors can be appropriately mitigated.
3. Consider changing the definition of farm market as having to produce 25% of the produce on site to producing 25% of the produce within the County.
4. Revise performance standards for Agriculture, Horticulture and Animal Husbandry [Section 5-626], Agriculture Support Uses (Direct Association with Agriculture, Horticulture or Animal Husbandry) [Section 5-627] and Agriculture Support Use (No

- Direct Association with Agriculture, Horticulture, Animal Husbandry) [Section 5-630] to resolve discrepancies for minimum lot size and setbacks.
5. Revise limitations for freestanding off-street parking facilities in PD-TRC [Section 4-1111(C)].
  6. Revise residential districts in Articles 2 and 3 to reflect density (dwellings per acre) and provide consistency with density credit regulations in Article 1.
  7. Revise performance standards for Airport/Landing Strip to increase the minimum lot area [Section 5-633].
  8. Revise Definitions [Article 8] to add a definition for “solid waste vehicles and containers” to fully implement ZORC recommendation.
  9. Revise the PD-IP use list to add “contractor service establishment, excluding retail sales and outdoor storage” to the permitted use list in PD-IP, rather than a special exception use [Sections 4-503 and 4-504].
  10. Revise performance standards for retail uses in PD-IP [Section 4-507(E)].
  11. Revise Temporary Uses/Zoning Permits to clarify that this section pertains to all zoning districts [Section 5-500].
  12. Revise steep slope definitions and development standards to differentiate between man-made and natural slopes, clarify review procedures for development in steep slopes areas and permit the development of sanitary sewer lines in very steep slope areas, subject to development standards. [Section 5-1508 and Article 8].

On April 30, 2007, the Planning Commission adopted a resolution of intent to amend the Zoning Ordinance to permit water lines in very steep slopes, subject to development standards. Draft language is included in the “Addendum to ZORC Redline Draft.” [Attachment 2]

On May 21, 2007, the Planning Commission held a public hearing on the amendments, receiving public comment from 22 speakers. In addition, written comment was received from four individuals. Public comment is summarized in Attachment 5.

On June 5, 2007, the Board of Supervisors endorsed an advertisement for this public hearing that would give the Board the most flexibility in examining both the ZORC’s and Planning Commission’s recommendations. The copy teste of this action is included as Attachment 6. ZORC, Staff and Planning Commission recommendations are summarized in the “Summary Matrix” included as Attachment 1 to this report.

On June 27, 2007, the Planning Commission voted to forward ZOAM 2006-0003 and ZOAM 2007-0001 to the Board of Supervisors with a recommendation of approval as revised by the Planning Commission through their June 27, 2007 work session (Motion passed: 6-0-3, Commissioners Doane, Hsu and Volpe absent for the vote). Their recommended text can be found in the “Addendum to ZORC Redline Draft,” dated July 11, 2007, which is included as Attachment 2 to this report.

As directed by the Board, this annual review process also includes amendments to Section 6-403(A), Submission Requirements, to expand the ownership information on the “Disclosure of

Real Parties In Interest Form” required for Zoning Map Amendment, Zoning Concept Plan Amendment, Zoning Ordinance Modification, Special Exception or Variance applications. Staff has coordinated with the County Attorney’s office and proposes language consistent with §15.2-2289 of the Code of Virginia. [See Attachment 2, page A30] The Planning Commission reviewed this language at their April 23, 2007 work session and recommends approval of the amended text.

## **II. SUMMARY OF CHANGES:**

As submitted to the Board of Supervisors in February of 2006, the ZORC draft contained over 1,000 changes. Some events overtook the ZORC draft prior to the Board’s intent to amend in December of 2006, including the rural policy area amendments (ZOAM 2005-0002), Route 50 landscaping amendments (ZOAM 2006-0002) and public water supply reservoir amendments (ZOAM 2006-0001). Where there were conflicts between Board action and the ZORC draft, the Board action prevailed. The ZORC Redline Draft has been updated to reflect the adopted text changes associated with these zoning ordinance amendments. A complete hard copy is included as Attachment 9\* to this report. In addition, a summary of changes by Article is included as Attachment 7 to this report.

The Planning Commission recommends approval of the vast majority of the ZORC changes. Staff identified nearly 80 proposed changes for further review. The Planning Commission, with input from Staff, ZORC members and some stakeholders, recommends alternatives that differ from the ZORC changes in only 64 instances. [See Attachments 1 and 2] Outstanding major concerns are identified in Section III below.

## **III. MAJOR CONCERNS:**

### ***Section 1-404(C), Boundary Line Adjustments:***

ZORC originally recommended allowing boundary line adjustments between nonconforming lots, provided the resulting lots meet the minimum lot area in effect at the time the lot was created. The Planning Commission was concerned that the proposed ZORC language was too broad and agreed with staff that it would be difficult to administer. The Planning Commission’s recommended text allows for boundary line adjustments under certain conditions and is included on page A10 of this report. Staff recommends the existing text be retained. Should the Board of Supervisors be inclined to adopt the ZORC recommendation for this section, staff notes that the ZORC text was amended during the June 11, 2007 Planning Commission work session to read: “Notwithstanding the provisions of paragraph (B) above, boundary line adjustments may be permitted between nonconforming lots, or between a conforming and a nonconforming lot, provided that the resulting lot(s) meet the minimum lot area in effect as of December 5, 2006.”

---

\* Due to its length, Attachment 9 is included for Board of Supervisors members only but is available in the Department of Building and Development or at [www.loudoun.gov/b&d/zoning/review/](http://www.loudoun.gov/b&d/zoning/review/).

***Recreation establishment, indoor in the A-3, AR-1 and AR-2 districts:***

ZORC recommends adding “recreation establishment, indoor” as a special exception use in the A-3 district. The Planning Commission concurs with that change and also recommends adding “recreation establishment, indoor” as a special exception use in the AR-1 and AR-2 districts. Staff is concerned that adding this use is not consistent with the purpose of these districts or with the rural policies of the Revised General Plan. These types of facilities do not rely upon the rural land resource for their operation nor are they considered rural economy uses. ZORC recommends amending the definition of “recreation establishment, indoor” as follows: “An enclosed or semi-enclosed building, tent, or structure designed to accommodate gatherings of human beings for games, athletics, cultural activities, martial arts, archery or firearm shooting, ~~or~~ rides, and the like. Office, retail, and other commercial uses commonly established in such facilities and related parking structures shall be allowed as accessory appurtenances. A commercial recreation area may also include mechanical or electrical amusement devices, and may include accessory uses such as refreshment stands, equipment sales or rentals.”

***Sections 2-904(A) & (B), Special Exception Uses in the RC District:***

ZORC and the Planning Commission recommend increasing the square footage limit of a single use in the RC district from 10,000 square feet to 15,000 square feet before a special exception is required. Further, they recommend eliminating the requirement that any one use exceeding 50% of the district obtain a special exception. Staff is concerned that these changes may result in uses less compatible with the existing character and neighborhood scale of the district and result in less business diversity.

***Sections 4-305(B)(1), 4-405(B)(1), 4-505(B)(1), 4-605(B)(1), 4-705(B)(1) and 4-805(F)(1), Yards, Adjacent to Roads:***

ZORC and the Planning Commission recommend revising yard requirements in the PD-OP, PD-RDP, PD-IP, PD-GI, PD-SA and PD-TC zoning districts to permit parking to be visible from roads when such parking is located between buildings and streets. Staff recommends the existing text be retained. Revised General Plan policies do not support parking within the building setbacks in employment-related zones. See page A15 of this staff report.

***Sections 4-503(G)/4-504(A), Office in the Planned Development-Industrial Park (PD-IP) District:***

ZORC recommends moving “office, administrative, business and professional” from the list of special exception uses to the list of permitted uses and further recommends deleting the development criteria for locating office in the Planned Development-Industrial Park (PD-IP) district.

At the Planning Commission work session on April 30, 2007, the Planning Commission recommended that office uses remain a special exception use in the PD-IP district and that the

development criteria be deleted. At their June 11, 2007 work session, the Planning Commission reconsidered this issue and recommended that office uses be permitted, pursuant to the revised development criteria recommended in the PD-OP district in Section 4-307(E). [See pages A15 and A16] If office uses become a permitted use in the PD-IP district, all approved special exception conditions for office uses in PD-IP no longer apply. Therefore, the Planning Commission also directed staff to research approved special exception conditions that have not been fulfilled to determine the impact of this amendment.

The following list is a representative sample of outstanding special exception conditions of approval:

- Bond/construct road right-of-way
- Dedicate/reserve road right-of-way
- Provide regional road contributions
- Provide road/intersection improvements
- Install and/or fund traffic signals at site plan, prior to occupancy or as warranted by VDOT
- Provide off-site right-of-way
- Commitment to approved Floor Area Ratio (FAR),
- Commitment to building height/square footage
- Perform archaeological studies
- Adhere to architectural design guidelines and standards
- Transit contributions and amenities
- Provide for low impact design
- Provide civic spaces, picnic areas
- Install preferred lighting
- Provide for wetlands mitigation
- Provide enhanced landscaping and buffers
- Bond/construct sidewalks and pedestrian/bicycle trails
- Dedicate/reserve area for sidewalks and pedestrian/bicycle trails
- Provide bicycle racks
- Screening of mechanical equipment

It is noted, for example, that in the case of Commonwealth Center (SPEX 2006-0003/SPEX 2002-0005), the County recently collected \$6,200,000 to be used for construction of Loudoun County Parkway. Although this property is governed by the 1972 Zoning Ordinance and its conditions remain in effect if this amendment is adopted, it is an example of the kind of condition that can no longer be imposed to mitigate adverse impacts of an office development, should this use become permitted or "by-right." Additionally, if properties under the 1972 Zoning Ordinance with approved office special exceptions "opt-in" or convert to the Revised 1993 Zoning Ordinance, those previously imposed special exception conditions would no longer apply.

***Section 4-503, Other Permitted Uses in the Planned Development-Industrial Park (PD-IP) District:***

In addition to office as a permitted use, in an effort to provide wide latitude to religious organizations, the Planning Commission recommends that day camp, child care centers, outdoor/indoor recreation establishments and public/private schools be added to the permitted use list. In addition, retail uses have been expanded at warehousing facilities. Staff is concerned that the addition of these uses does not support the Revised General Plan's keynote and economic development policies. Further, the cumulative impact of allowing these uses may undermine the County's ability to market PD-IP properties to industrial users, which does not coincide with ZORC's original objectives to make the Zoning Ordinance more business friendly and augment economic development. Key Revised General Plan policies, PD-IP uses and ZORC objectives are summarized in Attachment 8.

***Section 4-1511, Density Calculations:***

ZORC recommends providing density credit for major floodplain for both residential and nonresidential development. The Planning Commission recommends that density credit be provided for nonresidential development only and that such credit be limited to a maximum of 25% of the parcel's total land area, similar to provisions contained in the 1972 Zoning Ordinance. [See page A19] Staff recommends that the existing text of the Revised 1993 Zoning Ordinance, which does not provide density credit for major floodplain, be retained.

***Table 5-1414(B), Required Plantings per 100 Lineal Feet of Property Line:***

ZORC recommends a new schedule of planting requirements that combines side and rear yard requirements and reduces landscaping in some buffers. The Planning Commission endorses the ZORC table with added requirements for minimum and maximum buffer widths to prevent landscaping from being too sparse. [See page A26] Staff recommends that the existing text be retained so as not to lose any required landscaping and to continue to distinguish between side and rear buffer yards.

***Section 3-907(F), Access Limitation for Certain Uses in the Commercial Light Industry (CLI) District:***

Certain permitted uses and all special exception uses in the CLI district are subject to Section 3-907(F), which limits direct access to Route 50 to right-turn-in entrances only as approved by VDOT. ZORC recommends adding a provision to also allow right-turn-out movements to Route 50. It has belatedly come to staff's attention that the proposed amendment to this section impacts CPAM 2005-0007, Arcola Area/Route 50 Corridor Plan, which limits access to Route 50. The proposed amendment expands access to Route 50.

#### IV. ZONING ORDINANCE CRITERIA FOR APPROVAL

Section 6-1211(D), Text Amendments, of the Revised 1993 Loudoun County Zoning Ordinance states "...for an amendment of the text of this Ordinance, the Planning Commission shall consider the following matters...":

<u>Standard</u>	<i>Whether the proposed text amendment is consistent with the Comprehensive Plan.</i>
<u>Analysis</u>	The proposed text amendments have been reviewed for consistency with the Comprehensive Plan. Changes not fully consistent with the Comprehensive Plan are noted in the "Staff Recommendation" column in the "Summary Matrix." [Attachment 1]
<u>Standard</u>	<i>Whether the proposed text amendment is consistent with the intent and purpose of this Ordinance.</i>
<u>Analysis</u>	The intent of this ordinance is defined under Section 1-102, which states: "This Ordinance is enacted in order to promote the health, safety and welfare of the residents of Loudoun County and to implement the Loudoun County Comprehensive Plan." The proposed amendments are consistent with the intent of the Zoning Ordinance.

#### V. ATTACHMENTS

Number	Description	Pages
1.	Summary Matrix	A1—A9
2.	Addendum to ZORC Redline Draft, July 11, 2007	A10—A35
3.	March 6, 2007 copy teste	A36—A38
4.	April 17, 2007 copy teste	A39—A42
5.	Summary of Public Input for May 21, 2007 public hearing	A43—A47
6.	June 5, 2007 copy teste	A48
7.	Summary of text changes by article	A49—A59
8.	PD-IP summary chart	A60
9.	Hard copy of the updated ZORC Redline Draft <sup>†</sup>	-----

---

<sup>†</sup> Due to its length, Attachment 9 is included for Board of Supervisors members only but is available in the Department of Building and Development or at [www.loudoun.gov/b&d/zoning/review/](http://www.loudoun.gov/b&d/zoning/review/).